

JAN 25 2012

S.B. NO. 2934

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# A BILL FOR AN ACT

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RELATED TO VEHICLE IMMOBILIZATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. Chapter 291E, part III, Hawaii Revised  
2 Statutes, is amended by adding four new sections to be  
3 appropriately designated and to read as follows:

4       "§291E-A Vehicle immobilization devices; certification.

5       (a) The director of transportation shall establish and  
6 administer a statewide program relating to certification and  
7 monitoring of vehicle immobilization devices installed pursuant  
8 to this chapter and shall select a single vendor to install and  
9 maintain the devices.

10       (b) The program shall include standards and procedures for  
11 the certification of vehicle immobilization devices installed  
12 pursuant to this chapter.

13       (c) The program shall include standards and procedures for  
14 the certification of the vendor selected to install and maintain  
15 vehicle immobilization devices pursuant to this chapter. At a  
16 minimum, the standards shall require that the vendor:

17       (1) Install only a vehicle immobilization device that is  
18 certified pursuant to this section; and



1        (2) Offer or contract for vehicle immobilization device  
2        installation and maintenance statewide.

3        (d) The vendor selected for installation and maintenance  
4        of vehicle immobilization devices pursuant to this chapter shall  
5        be audited annually by the director of transportation pursuant  
6        to this section and the rules adopted hereunder. The director  
7        of transportation may require the vendor to pay for all or part  
8        of the costs incurred in conducting the audit.

9        (e) The director of transportation shall adopt rules  
10       pursuant to chapter 91 necessary for the purposes of this  
11       section.

12       §291E-B Vehicle immobilization devices; procedure upon  
13       arrest; appeal. (a) Any law enforcement officer, upon making  
14       an arrest pursuant to section 291E-62 and determining that the  
15       vehicle has not been reported as stolen, shall provide the  
16       operator with the option to have the vehicle immobilized in lieu  
17       of being towed pursuant to county ordinance.

18       (b) If the operator chooses to have the vehicle  
19       immobilized pursuant to subsection (a), the law enforcement  
20       officer shall notify the approved vehicle immobilization vendor  
21       of the arrest after transporting the driver to the police  
22       station. The vendor shall transport the vehicle to private



1 property of the operator's choice and attach a vehicle  
2 immobilization device. The operator shall be responsible for  
3 all costs associated with transportation and storage of the  
4 vehicle.

5 (c) If the operator chooses to have the vehicle towed, the  
6 law enforcement officer shall notify the approved vehicle  
7 immobilization vendor of the location of the vehicle to be  
8 towed. The operator shall be prohibited from operating the  
9 vehicle absent a valid license, including driving it away from  
10 the tow facility. The vendor shall transport the vehicle to  
11 private property of the operator's choice and attach a vehicle  
12 immobilization device. The operator shall be responsible for  
13 all costs associated with transportation and storage of the  
14 vehicle.

15 (d) Not more than two days after attaching the vehicle  
16 immobilization device, the immobilization vendor shall mail a  
17 notice of immobilization to the operator, the local law  
18 enforcement agency, and the director. The notice of  
19 immobilization shall include the name and telephone number of  
20 the immobilization vendor, the location of the immobilized  
21 vehicle, the make and model of the vehicle, and the license  
22 plate number.



1       (e) If the operator is not the owner of the vehicle, the  
2 immobilization vendor, not more than two days after attaching  
3 the immobilization device, shall send notice by certified mail,  
4 return receipt requested, to the owner of the vehicle and to  
5 each person of record claiming a lien against the vehicle.

6       (f) The operator of the vehicle shall assume liability for  
7 all claims of loss or damage to the vehicle against the vehicle  
8 immobilization vendor except for the vendor's gross negligence  
9 or wanton acts or omissions. The operator shall pay all costs  
10 and fees for the immobilization, including the costs of  
11 notification, installation, and maintenance. The costs and fees  
12 for the immobilization shall be paid directly to the  
13 immobilization vendor.

14       (g) Anytime after the notice of immobilization is mailed  
15 pursuant to subsections (d) or (e), the owner of the vehicle or  
16 a household member of the operator may submit a sworn statement  
17 and supporting documents to the director requesting removal of  
18 the vehicle immobilization device. The director may grant the  
19 request and may order all costs and fees for immobilization  
20 assessed to the operator upon determining that one of the  
21 following conditions are met:

22       (1) The vehicle was stolen at the time of arrest;



1        (2) The vehicle was sold or transferred after the arrest;  
2        provided that the sale or transfer was not made to  
3        allow the operator continued access to the vehicle;

4        (3) The applicant is a household member of the operator  
5        and completely dependent on the motor vehicle for the  
6        necessities of life and the applicant will take  
7        reasonable precautions to ensure that the operator  
8        will not operate the vehicle; or

9        (4) The owner of the vehicle was not aware that the  
10       operator's license and privilege to operate a vehicle  
11       had been revoked, suspended, or otherwise restricted  
12       at the time of arrest.

13       The director shall decide whether to grant the request and mail  
14       notice of the decision within five days after receiving the  
15       request.

16       (h) If the director denies a request made pursuant to  
17       subsection (g), the owner of the vehicle or household member may  
18       file a petition for judicial review within thirty days after the  
19       director's decision is mailed. The petition shall be filed with  
20       the clerk of the district court in the district in which the  
21       arrest occurred, the current location of the vehicle, or where  
22       the petitioner resides and shall be accompanied by the required



1 filing fee for civil actions. The petition shall be  
2 appropriately captioned. The petition shall state with  
3 specificity the grounds upon which the petitioner seeks reversal  
4 of the director's decision.

5 (i) For purposes of this section, "owner of the vehicle"  
6 means the same as "owner" as the term is defined in section  
7 431:10C-103.

8 §291E-C Duration of vehicle immobilization. Duration of  
9 vehicle immobilization shall be as follows:

- 10 (1) Six months for the first immobilization;  
11 (2) Nine months for the second immobilization; and  
12 (3) One year for the third and subsequent immobilizations.

13 §291E-D Circumvention of or tampering with a vehicle  
14 immobilization device; penalties. (a) No person who has a  
15 vehicle immobilized pursuant to section 291E-B shall knowingly:

- 16 (1) Tamper with a vehicle immobilization device with the  
17 intent to render it inoperable; or  
18 (2) Request, solicit, direct, authorize, or cause another  
19 person to tamper with a vehicle immobilization device  
20 with the intent to render it inoperable.



1        (b) Any person who violates subsection (a) shall be  
2 sentenced without possibility of probation or suspension of  
3 sentence as follows:

4        (1) For a first offense, or any offense not preceded  
5 within a five-year period by conviction under this  
6 section:

7        (A) A term of imprisonment of not less than three  
8 consecutive days but not more than thirty days;

9        (B) A fine of not less than \$250 but not more than  
10 \$1,000; and

11        (C) Impoundment, or impoundment and sale, of the  
12 motor vehicle for the costs of storage and other  
13 charges incident to seizure of the vehicle;

14        (2) For an offense that occurs within five years of a  
15 prior conviction for an offense under this section:

16        (A) Thirty days imprisonment;

17        (B) A \$1,000 fine; and

18        (C) Impoundment, or impoundment and sale, of the  
19 motor vehicle for the costs of storage and other  
20 charges incident to seizure of the vehicle; and



1        (3) For an offense that occurs within five years of two or  
2        more prior convictions for offenses under this  
3        section, or any combination thereof:

4        (A) One year imprisonment;

5        (B) A \$2,000 fine; and

6        (C) Impoundment, or impoundment and sale, of the  
7        motor vehicle for the costs of storage and other  
8        charges incident to seizure of the vehicle."

9        SECTION 2. Section 291E-1, Hawaii Revised Statutes, is  
10       amended by adding a new definition to be appropriately inserted  
11       and to read:

12       "Vehicle immobilization device" means a device certified  
13       pursuant to section 291E-A and rules adopted hereunder that,  
14       when attached to a wheel, steering wheel, parking brake, pedal,  
15       transmission, gear shift, or other appropriate location of a  
16       motor vehicle, prevents the vehicle from being operated, but  
17       shall not include an ignition interlock device."

18       SECTION 3. Section 291E-5, Hawaii Revised Statutes, is  
19       amended to read as follows:

20       "§291E-5 Ignition interlock and vehicle immobilization  
21       device user affordability. The director of transportation shall  
22       contract with the selected ignition interlock [~~vender~~] and





1 vehicle immobilization vendors to provide partial financial  
2 relief for [the] installation and [the] periodic [calibration]  
3 charges to offenders who apply for such assistance and who are  
4 recipients, at the time of license revocation or suspension, of  
5 either food stamps under the Supplemental Nutrition Assistance  
6 Program, or free services under the Older Americans Act or  
7 Developmentally Disabled Assistance and Bill of Rights Act."

8 SECTION 4. In codifying the new sections added by section  
9 1 of this Act, the revisor of statutes shall substitute the  
10 appropriate section numbers for the letters used in designating  
11 the new sections in this Act.

12 SECTION 5. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 6. This Act shall take effect on July 1, 2013.

15 INTRODUCED BY:

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# S.B. NO. 2934

**Report Title:**

Drunk Driving, Penalties, Vehicle Immobilization, Suspended License

**Description:**

Requires the immobilization of vehicles operated by a person whose license has been suspended or revoked for OVUII. Establishes process for owner of the vehicle, if other than the operator, to request removal of the device. Effective 7/1/13.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

